

**JUN 06 2006****Papazyan v Gonzales 03-74389****WALLACE, Circuit Judge, dissenting:****CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

The majority inexplicably concludes that Vergina Papazyan's testimony was "so credible that no reasonable factfinder could find that she was not credible." I disagree. In my view, "the IJ established a legitimate, articulable basis to question [petitioner's] credibility and offered specific, cogent reasons for disbelief as required under our law." *Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003). Although only one is needed, the IJ provided at least three well-supported and independently sufficient bases for doing so. I would uphold the adverse credibility determination.

Vergina Papazyan's asylum application maintained that her husband had been murdered "on the ground that he was Azerbaijanian and Muslim." However, she testified at her hearing that her husband was alive. The question of whether Papazyan's husband is alive or whether he was murdered because of his religion and race is clearly an inconsistency that goes to the heart of Papazyan's asylum claim. The majority states that the discrepancy came about because Papazyan sought help filling out her asylum application in English. This conclusion will surprise Papazyan, as she never made this argument in her brief. It is only speculation of the majority.

"Our review ends if there is evidence to support the IJ's adverse credibility

decision.” *Li v. Ashcroft*, 378 F.3d 959, 960 (9th Cir. 2004). The record does not compel reversal on this issue. Papazyan’s asylum application averred that her husband was murdered because of his religion or race. Her oral testimony indicated that he was alive, well, and reachable by telephone. The adverse credibility determination should be upheld on this ground alone.

To my mind, there are other significant inconsistencies in Papazyan’s testimony, although the majority does not address them. One of the pivotal allegations in her written application was that in 1990 she was beaten and raped in Azerbaijan because of her Armenian ancestry. In her oral testimony she stated she was raped in 1992. We have held that “[m]inor errors or inconsistencies do not constitute a valid ground upon which to base a finding that an asylum applicant is not credible.” *Hoque v. Ashcroft*, 367 F.3d 1190, 1195 (9th Cir. 2004). However, a discrepancy of two full years as to the date of an allegedly brutal rape and attack is not necessarily minor. In any event, “[t]he IJ is, by virtue of his acquired skill, uniquely qualified to decide whether an alien’s testimony has about it the ring of truth.” *Kaur v. Gonzales*, 418 F.3d 1061, 1067 (9th Cir. 2005) (internal quotation marks and citation omitted). Papazyan has not demonstrated that the evidence “compels” reversal.

Papazyan’s application declared that a hospital refused to treat her altogether because of her ethnicity. However, she testified orally that she was in

the hospital for between fifteen days and one month and that she received twenty stitches to her head. The issue of whether she was denied medical treatment because of her ethnicity clearly goes to the heart of the claim. Again, Papazyan has not demonstrated that the evidence “compels” reversal of the adverse credibility determination.

These are just three of the *ten* reasons the immigration judge listed for finding Papazyan incredible. When an IJ lists multiple reasons for finding the applicant incredible, we must accept the IJ’s finding if even one of the listed reasons that goes to the heart of the applicant’s claim is supported by substantial evidence. *Li*, 378 F.3d at 964. As outlined above, at least three of the ten inconsistencies found by the IJ meet this test. Additionally, all ten inconsistencies together could lead a reasonable factfinder to find that Papazyan was not credible, as “false statements and other inconsistencies must be viewed in light of all the evidence presented in the case.” *Kaur*, 418 F.3d at 1066. Given the multiple inconsistencies, I am puzzled by the majority’s conclusion that Papazyan is “so credible that no reasonable factfinder could find that she was not credible.”

Like the majority, I feel sympathy for Vergina Papazyan’s position, as she is an elderly woman who has probably experienced hardship. A feeling of sympathy, however, is legally insufficient to justify such a wholesale rejection of the adverse credibility finding. Although the majority asserts our deferential standard of

review, the analysis eviscerates it. Papazyan was “required to establish that the evidence was so compelling that this court must find it worthy of credence and must order [petitioner] eligible for asylum relief.” *Farah*, 348 F.3d at 1153; *see also* 8 U.S.C. § 1252(b)(4)(B). No reasonable reading of the record could indicate that she has met this standard.

I respectfully dissent.